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The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board

Paper No. 15

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte RANDY R. DUNTON,
SASI K. KUMAR and ASHUTOSH J. BAKHLE

Appeal No. 2000-2164
Application 08/984,005

ON BRIEF

Before THOMAS, RUGGIERO and BLANKENSHIP, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellants have appealed to the Board from the examiner's final rejection of claims 1-24. Representative claim 17 is reproduced below:

17. A method of processing digital pixel output signals produced by a digital imaging array comprising:

processing saturated digital pixel output signals differently from non-saturated digital pixel output signals.

The references relied on by the examiner are:

Takase	5,278,658	Jan. 11, 1994
Pain et al. (Pain)	5,886,659	Mar. 23, 1999 (filing date Aug. 21, 1997)
Kuribayashi (JP)	2-76481	Mar. 15, 1990

Claims 1-24 stand rejected under 35 U.S.C. § 103. As to independent claims 1, 9 and 17, the examiner relies upon Kuribayashi in view of Pain. As to the remaining claims on appeal, claims 2-8, 10-16 and 18-24, the examiner relies upon Kuribayashi in view of Takase.[1]

Rather than repeat the positions of the appellants and the examiner, reference is made to the brief and answer for the respective details thereof.

OPINION

We reverse.

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[1] This second rejection under 35 U.S.C. § 103 is logically flawed in that it fails to rely upon Pain in the formal statement of the rejection. Since dependent claims 2-8, 10-16, and 18-24 respectively depend from independent claims 1, 9 and 17, according to the examiner's reasoning, the subject matter of the dependent claims cannot logically be met by the combination of Kuribayashi and Takase without the use of Pain.

At the outset, we note that the subject matter of independent claim 9 on appeal positively recites a digital imaging array, which in turn provides digital pixel output signals to be processed by the imaging processing circuitry. In contrast to this claim, claim 1 only passively recites the generation of the digital pixel output signals by a digital imaging array. Notwithstanding these considerations, both independent claims 1 and 9 on appeal positively recite "said image processing circuitry being adapted to process saturated digital pixel output signals differently from non-saturated digital pixel output signals." On the other hand, the broadest independent claim on appeal, claim 17, also passively recites the generation of digital pixel output signals by a digital imaging array yet, at the same time, also positively recites "processing saturated digital pixel outputs differently from non-saturated digital pixel output signals." Therefore, what is common among all the independent claims on appeal is the processing of saturated digital pixel signals differently from non-saturated digital pixel signals no matter from where or in what manner these digital signals are derived.

Based upon our study of Kuribayashi, it is not clear to us if the image pickup unit 12 of Figure 1 produces analog or digital output image signals. On the other hand, however, the clear inference to us and to the artisan is that the remaining circuits, the video signal generator 13, the video correction unit 16, and the transmitted light control unit 15 are discussed beginning at page 5 of the translation only in terms of processing video signals. As such, the artisan clearly would have interpreted this as processing only analog information from the image generated by the image pickup unit 12. Therefore, the examiner's urging at page 4 of the answer that Kuribayashi's element 15 processes saturated bright pixel output signals differently cannot meet the subject matter of independent claims 1, 9 and 17 on appeal because element 15 in Figure 1 of Kuribayashi appears to us to be incapable of processing digital pixel output signals anyway. On this basis, we must reverse the rejection.

Additionally, even if we were to take the examiner's position with respect to the secondary reference to Pain, we would reach the same result. That is, if we were to agree with the examiner's position to substitute the image sensor arrays of Pain (such as those set forth in Figures 1A to 1C) for the image

pickup unit 12 in Figure 1 of Kuribayashi to produce digital output signals, the remaining portions of Figure 1 of Kuribayashi (elements 13, 15 and 16) would be incapable of processing the digital signals since the clear teaching or inference to us and to the artisan is that they are only capable of processing video or analog information signals.

Without additional evidence in the form of applied prior art, we will not agree with any position of the examiner that may appear to urge the obviousness of converting all of the circuit elements of Kuribayashi to digital circuits to process a digital signal. The nature of the evidence in the form of the applied prior art is not sufficient to convince us of the obviousness of the subject matter of even the broadest independent claim 17 on appeal and is also not sufficient to convince us of the obviousness of the subject matter of the other independent claims. Although we agree with the examiner's views that the circuit 15 in Figure 1 of Kuribayashi may be construed to process high intensity image signals differently than non-high intensity image signals, even if we were to agree with the examiner's position as to the combination of Kuribayashi and Pain, the subject matter of the respective independent claims on appeal would not have been arrived at by the artisan.

In view of the foregoing, the decision of the examiner rejecting independent claims 1, 9 and 17 on appeal under 35 U.S.C. § 103 is reversed. As such, the separate rejection of their respective dependent claims is also reversed.

REVERSED

James D. Thomas)
Administrative Patent Judge)
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Joseph F. Ruggiero) BOARD OF PATENT
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